

**ZB# 75-7**

**John Hamilton**

**55-2-?**

75-7- Hamilton, John

~~Hold for Decision~~

Notice in Paper 4/18/75.

Public Hearing 4/28/75.

All fees paid.

Sent to Julie T.

5/75.

File

Use Variance granted to  
John Hamilton this 28th day of April, 1975  
by ZBA.

Pat Delio, Secy.

Filed w/ Town Clerk on 16th day of July, 1975.  
at 3:PM.

55-2-

ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR, NEW YORK

-----X  
In the matter of the application

of  
  
JOHN HAMILTON

DECISION GRANTING  
A USE VARIANCE  
WITHIN AN RA DISTRICT

-----X  
  
WHEREAS, JOHN HAMILTON of East Green Road, Rock Tavern, New York 12575 filed an application for a variance from the provisions of the New Windsor Zoning Code, Section 48-6, entitled 'One-Family Residents Agriculture RA District', for property located on East Green Road, New Windsor, New York to permit the reconstruction of a building on that property which is owned by the applicant into a four family house;and

WHEREAS, a Public Hearing on this application for a variance was held by the Zoning Board of Appeals at the Town Hall, New Windsor, New York on the 28th of April, 1975 after due notice by publication in the Evening News and due notice to residents and businesses within 500 feet of the subject premises;and

WHEREAS, at said hearing the applicant was represented by himself, and no one appeared in opposition for the application;and

WHEREAS, the Zoning Board of Appeals makes the following findings of fact in this matter:

1. The application requested a variance to permit construction of a four family house, but the Zoning Board of Appeals determined that a two family house would serve to render the property productive.

2. A use variance is necessary because without such a variance the property is unproductive and unmarketable because of the intrusion of power line easements by the Central Hudson Gas & Electric Company and Consolidated Edison Utility Company, both of which easements severed the

property in point and placed it in a remote location from Town roads and services.

3. The Zoning Board of Appeals duly referred to the Town Engineer the question on whether a 50 foot wide Town road must be constructed by the applicant up to the property line on the driveway of the proposed multi-family dwelling unit.

4. The Town Engineer has replied to the Zoning Board of Appeals with a letter dated May 19, 1975, a copy of which is appended hereto, and

WHEREAS, the Zoning Board of Appeals makes the following findings of law in this matter:

1. The land in question cannot yield a reasonable return if used only for a purpose permitted by the Zoning Ordinance.

2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood.

3. The use sought to be authorized by the variance will not alter the essential character of the locality.

4. The approval of the nonconforming use sought will not have an adverse effect upon the Zoning Ordinance itself.

THE ZONING BOARD OF APPEALS HEREBY DETERMINES THAT A USE VARIANCE PERMITTING A TWO-FAMILY DWELLING UNIT MEETS THE UNNECESSARY HARDSHIP TEST CALLED FOR UNDER NEW YORK STATE LAW AND GRANTS THAT VARIANCE, subject to site plan review by the Planning Board as suggested by the Town Engineer.

Dated:

New Windsor, New York

S/  
Theodore Jargstorf, Chairman  
Zoning Board of Appeals

May 19, 1975

Chairman, Zoning Board of Appeals

Subject: J. Hamilton, subdivision

I have reviewed subdivision map of lands of J. Hamilton.

A two family house on this property, in my opinion, would be subject to site requirements for Planning Board, the same as a Residential multi-family would.

The roadway from the house to the cul-de-sac curb cut should be treated as a private driveway. The section from the cul-de-sac curb cut to the main property would have to have special treatment such as a fencing and standard curbs to prevent encroachment of vehicles on the properties of Defreese and Flynt. The Town would not want this section, due to the fact that it would be difficult to plow for snow removal.

I suggest that the ZBA make the above requirements with review by the Planning Board a stipulation of granting the applicants request.

Respectfully,

Paul M. Cuomo, P.E.  
Town Engineer

PVC/mfb  
cc: Attorney Crotty

Adopted 12/20/65

APPLICATION FOR VARIANCE

Application No. 75-7  
Date: \_\_\_\_\_

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (We) John Hamilton of East Green Road  
(Street & Number)

Rock Tavern New York 12575 HEREBY MAKE  
(State)

APPLICATION FOR A VARIANCE:

A. Location of the Property East Green Road RA  
(Street & Number) (Zone)

B. Provision of the Zoning Ordinance Applicable: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance.) Article 111 Section 48-6

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because: it is uneconomical for single family homes,  
because of length of town road needed- All this created by the New  
power lines
2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because: The amount of land in Question is  
not large enough to subdivide into enough parcels to warrant the  
building of a town road to reach these parcels. All this created  
by the new power lines which cross through the property
3. The unique conditions and circumstances are not the result of actions taken of the applicant subsequent to the adoption of the Ordinance because: I  
have no control over Con Edison or the Public Service Commission  
which has decreased the overall usage of the property

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance because: \_\_\_\_\_

There is more than enough area

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: \_\_\_\_\_

it is an RA Zone

- D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.

Four Family house

- E. Application to be accompanied by two checks, one payable to the Town of New Windsor in the amount decided by the Board and the second check payable to the Secretary for taking the public hearing minutes. Applications to be returned to: Secretary of ZBA.

- F. NOTICE OF HEARING: Applicant agrees to send notice of any public hearing via registered or certified mail to all abutting land owners as required by Sec. 9.4.1. of the Ordinance.

- G. If the property in question is located within a radius of 500 ft. of an adjoining municipality, the Board should be notified. Also, have your attorney check Sec. 239 I&M of the Gen. Municipal Law to see if it applies. If so, notify the Orange County Planning Board by sending them an application.

Dated: \_\_\_\_\_

John Hamblin  
Signature of Applicant

STATE OF NEW YORK) SS.:  
COUNTY OF ORANGE)

Sworn to on this 19th day of April, 1975.

East Green Road/Rock Tavern

Address

427-5016

Telephone Number

Patricia Delia  
(Notary Public) - Orange County

My Comm. Expires 3/30/76  
(DO NOT WRITE IN THIS SPACE)

Application No. 75-7  
Date of Hearing 4/28/75  
Date of Decision \_\_\_\_\_

Variance approved  
4/28/75  
Date Received \_\_\_\_\_  
Notice Published \_\_\_\_\_

DECISION:



May 19, 1975

Chairman, Zoning Board of Appeals

Subject: J. Hamilton, Subdivision

I have reviewed subdivision map of lands of J. Hamilton.

A two family house on this property, in my opinion, would be subject to site requirements for Planning Board, the same as a Residential multi-family would.

The roadway from the house to the cul-de-sac curb cut should be treated as a private driveway. The section from the cul-de-sac curb cut to the main property would have to have special treatment such as a fencing and standard curbs to prevent ~~encroachment~~ of vehicles on the properties of Defreese and Flynt. The Town would not want this section, due to the fact that it would be difficult to plow for snow removal.

I suggest that the ZBA make the above requirements with review by the Planning Board a stipulation of granting the applicants request.

Respectfully,

Paul M. Cuomo, P.E.  
Town Engineer

PVC/mfb

cc: Attorney Crotty

ZONING BOARD OF APPEALS  
Town of New Windsor, New York 12550

555 Union Avenue  
New Windsor, N. Y.  
May 21, 1975

Mr. John Hamilton  
East Green Road  
Rock Tavern, N. Y.

RE: APPLICATION FOR VARIANCE

Dear Mr. Hamilton:

Kindly be advised that the following motion was made at the May 19th meeting of the Zoning Board of Appeals:

"Motion by George Yorkis, seconded by Mrs. Budney that we approve the application of John Hamilton for a use variance provided that the recommendations of the Town Engineer as set forth in his letter of May 19, 1975 are followed."

This motion was carried by the Board.

I have enclosed herewith a copy of the Town Engineer's letter of May 19th which is referenced above for your information.

If you have any questions, please do not hesitate to call.

Yours truly,

*Theodore Jancstorf*  
THEODORE JANCSTORF, Chairman

/pd

Enc.

cc: Howard Collett, Bldg. Inspector

Joseph Loscalzo, Planning Board Chairman

*w/ copies of Town  
Engineer's  
letter.*

ZONING BOARD OF APPEALS  
Town of New Windsor, New York 12550

7 Franklin Avenue  
New Windsor, N. Y.  
April 19, 1975

Joseph Loscalzo, Chairman  
New Windsor Planning Board  
555 Union Avenue  
New Windsor, N. Y. 12550

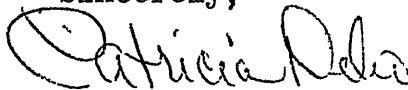
RE: ZONING BOARD MEETING - 4/28/75

Dear Mr. Loscalzo:

Please be advised that there will be a Public Hearing on Application of John Hamilton on Monday evening, April 28th, 8 p.m. at the Town Hall.

I have enclosed herewith the application of Mr. Hamilton together with copy of Public Hearing notice, for your information.

Sincerely,



Patricia Delio, Secretary

/pd

Encs.

cc: Howard Collett, Bldg. Inspector  
Town of New Windsor



1763

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

28 April

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

Consolidated Edison Co.  
of New York, Inc.  
4 Irving Place  
New York, New York 10003

Martin, James H. Jr. & Jane C.  
Twin Arch Road  
Rock Tavern, New York 12575

Kramer, Martin & Esther  
East Green Road  
Rock Tavern, New York 12575

Tocci, Anthony & Natalie  
Twin Arch Road  
Rock Tavern, New York 12575

Christensen, John D. & Dorothy  
Apt. 2C 4 B Street  
Pomona, New York 10970

Babcock, Claude Jr. & Claudia  
Twin Arch Road  
Rock Tavern, New York 12575

Treco, William H. & Marguerite R.  
Storms Road  
Valley Cottage, New York

Nespoli, Ralph  
Bender Court  
Stony Point, New York 10980

Licoma Corp.  
RD#2  
Warwick, New York 10990

Davellion Realty Co. Ltd.  
Box 165  
Warwick, New York 10990

Herschberg, Meyer & Paula  
7 Tammy Road  
Spring Valley, New York 10977

To Notify  
of Public Hearing  
for Variance on Zoning  
how # 2 Families HS  
Mrs. DeLeo  
at 6 PM

Respectfully submitted,

Ellsworth E. Weyant  
ELLSWORTH E. WEYANT  
Sole assessor  
Town of New Windsor